

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

WIRTGEN AMERICA, INC.,	)	
	)	
Plaintiff,	)	
	)	C.A. No. 17-770-JDW
v.	)	
	)	<b>JURY TRIAL DEMANDED</b>
CATERPILLAR INC.,	)	
	)	
Defendant.	)	

**CATERPILLAR INC.’S CROSS-MOTION FOR JUDGMENT ON THE PLEADINGS ON  
WIRTGEN’S FOURTH AFFIRMATIVE DEFENSE (PATENT INELIGIBILITY)**

Defendant and Counterclaim-Plaintiff Caterpillar, Inc. (“Caterpillar”) respectfully cross-moves under Fed. R. Civ. P. 12(c) on Plaintiff and Counterclaim-Defendant Wirtgen America, Inc.’s (“Wirtgen’s”) Fourth Affirmative Defense (D.I. 68 at 11) of Invalidity as to U.S. Patent No. 9,975,538 (“the ’538 Patent”) under 35 U.S.C. § 101. Specifically, Wirtgen cannot show that Claim 13 of the ’538 Patent is both directed to an abstract idea and lacks an inventive concept.

The bases for Caterpillar’s Cross-Motion are set forth in the accompanying Combined Memorandum of Points and Authorities.

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Respectfully submitted,  
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